

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

BARBARA ANN THURMAN BLEVINS,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.: CV06-398-MHT
)	
PROGRESSIVE INSURANCE)	
COMPANY,)	
)	
Defendant.)	

STATEMENT OF UNDISPUTED FACTS

Comes now the defendant, Progressive Specialty Insurance Company ("Progressive"), pursuant to Rule 56 of the Federal Rules of Civil Procedure, and submits the following undisputed facts in support of its motion for summary judgment:

1. Progressive Specialty Insurance Company issued an automobile insurance policy to Barbara Ann Thurman Blevins ("Blevins") on October 20, 2003. (See Declarations Page 1, attached hereto as exhibit "A"; Affidavit of Larry Lackey ¶ 3, attached hereto as exhibit "B").
2. The policy provided underinsured motorist ("UIM") benefits in the amount of \$20,000 for injury to one person in an accident. (Declarations Page 1, attached hereto as exhibit "A"; Affidavit of Larry Lackey ¶ 4, attached hereto as exhibit "B").
3. Blevins's Progressive UIM policy provided that UIM coverage applied where "a liability bond or policy applies at the time of the accident, but the sum of all applicable limits of liability for bodily injury is less than the damages which the insured person is legally entitled to recover." (Declarations Page 7, attached hereto as exhibit "A").

4. Blevins was involved in an automobile accident on February 6, 2004.

(See Complaint ¶ 1; Affidavit of Larry Lackey ¶ 5, attached hereto as exhibit "B").

5. Progressive admits that the insurance policy was in full force and effect at the time of the accident. (See Answer at ¶ 2; Affidavit of Larry Lackey ¶ 3, attached hereto as exhibit "B").

6. Blevins submitted a claim to Progressive for uninsured motorist coverage ("UIM") for the full policy limit, \$20,000. (Affidavit of Larry Lackey ¶ 6, attached hereto as exhibit "B").

7. Progressive's claims staff thoroughly reviewed Blevins's file and concluded that there was no UIM exposure. (Affidavit of Larry Lackey ¶ 17, attached hereto as exhibit "B"). Progressive's valuation of the case was compiled as follows:

a. Blevin's medical records revealed only soft tissue injuries and no permanent injuries. (Affidavit of Larry Lackey ¶ 10, attached hereto as exhibit "B").

b. Blevins's medical records indicated that she had chosen not to pursue recommended treatments. (Affidavit of Larry Lackey ¶¶ 11 and 13, attached hereto as exhibit "B").

c. Blevins's claim was based on the fact that she submitted no damages for lost wages. (Affidavit of Larry Lackey ¶ 16, attached hereto as exhibit "B").

d. Blevins submitted medical expenses of \$13,482.25. (Affidavit of Larry Lackey ¶ 15, attached hereto as exhibit "B").

e. Blevins submitted out-of-pocket expenses of \$2,288.00. (Affidavit of Larry Lackey ¶ 15, attached hereto as exhibit "B").

8. Progressive learned that the tortfeasor's liability insurer, Alfa, settled its claim with Blevins for \$24,000, below its \$25,000 policy limit. (Affidavit of Larry Lackey ¶ 8, attached hereto as exhibit "B").

9. Progressive learned that Laborers Southeast Health & Welfare, Blevins's health insurer, claimed a subrogation interest of \$6,412.73 on her medical expenses. (Affidavit of Larry Lackey ¶15, attached hereto as exhibit "B").

10. After thorough review of Blevins's file, Progressive determined that it had no UIM exposure; Blevins's settlement with Alfa had sufficiently compensated her claim. (Affidavit of Larry Lackey ¶ 17, attached hereto as exhibit "B").

11. Nonetheless, Progressive offered Blevins \$1,000 in satisfaction of her claim for UIM coverage. Blevins rejected that offer. (Affidavit of Larry Lackey ¶ 18, attached hereto as exhibit "B").

12. This case was filed on March 3, 2006. (See Complaint).

/s/ R. Larry Bradford
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Defendant, Progressive Specialty
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served upon the following via electronic filing on this 10th day of October, 2006.

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/s/ R. Larry Bradford
OF COUNSEL